

Regular Session, 2010

HOUSE BILL NO. 1199

BY REPRESENTATIVE MORRIS

LABOR: Provides with respect to private employment services

1 AN ACT

2 To amend and reenact R.S. 23:108(B)(1) and (C), 111(C)(10) and (11), and (F), and 113 and
3 to enact R.S. 23:108(F) and 111(C)(12), relative to employment services; to provide
4 penalties for violations; to provide a cause of action and legal recourse; to prohibit
5 certain actions by employment services; to provide for penalties for unlicensed
6 persons; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 23:108(B)(1) and (C), 111(C)(10) and (11), and (F), and 113 are
9 hereby amended and reenacted and R.S.23:108(F) and 111(C)(12) are hereby enacted to read
10 as follows:

11 §108. Violations by licensee; revocation or suspension

12 * * *

13 B.(1) For any act or omission in violation of any provision of this Part or any
14 rule or regulation prescribed hereunder, the ~~assistant secretary~~ director may levy a
15 fine not to exceed five hundred dollars per violation, suspend the license for a period
16 of not more than one year, or revoke any license issued under the authority of this
17 Part.

18 * * *

19 C. Should the ~~assistant secretary~~ director or his designee determine that an
20 applicant is entitled to a refund under any provision of this Part, or any rule or

1 regulation prescribed hereunder, the ~~assistant secretary is authorized to~~ director shall
2 issue an order to the employment service requiring the refund to be made.

3 * * *

4 F. Any applicant injured by the employment service or by his agents or
5 employees while acting within the scope of their employment, by reason of a an
6 intentional misrepresentation, fraud or deceit, by reason of any other unlawful act or
7 omission, or by reason of any other violation of the provisions of this Part made or
8 committed in connection with the business licensed hereunder, shall have the right
9 to seek recovery of amounts paid by the applicant to the employment service plus
10 damages not to exceed twenty-five percent of the fee paid or other relief in any court
11 of competent jurisdiction. Attorneys fees shall be awarded to the prevailing party
12 in such action.

13 * * *

14 §111. Regulation; restrictions and prohibitions

15 * * *

16 C. An employment service shall not engage in the following conduct:

17 * * *

18 (10) Charge an applicant a fee when the employment service procures
19 employment for an applicant with a public or governmental employer.

20 ~~(10)~~ (11) Permit an applicant to sign a power of attorney or assignment of
21 wages, the form of which has not been approved by the office of unemployment
22 insurance administration. The power of attorney shall be required to include the
23 following terms and conditions:

24 (a) Any funds received by the employment service as a result of an applicant
25 signing a power of attorney or assignment of wages shall be placed in an escrow
26 checking account to be used exclusively for the receipt and disbursement of
27 applicant's funds. This escrow account shall be kept separate from all other
28 employment service's accounts. Upon receipt of an applicant's wages, the
29 employment service shall immediately deposit said funds into the escrow account.

1 The disbursement of any funds received by the employment service as a result of an
2 applicant signing a power of attorney or assignment of wages shall be specifically
3 limited as follows:

4 (I) The employment service may pay to itself the applicable placement fee
5 plus legally allowable interest, not to exceed twelve percent per annum, authorized
6 by the power of attorney.

7 (ii) The employment service shall distribute any and all of the remaining
8 wages to the applicant.

9 (b) Upon receiving applicant's wages, the employment service shall promptly
10 notify the applicant. The employment service shall deliver to the applicant any funds
11 that the applicant is entitled to receive pursuant to the power of attorney agreement
12 and, upon written request by the applicant, shall promptly render a full accounting
13 regarding such funds.

14 (c) Complete records of such escrow account funds shall be kept by the
15 employment service and shall be preserved for a period of five years from the
16 termination of the power of attorney and assignment of wages executed by the
17 applicant.

18 ~~(11)~~ (12) Permit an applicant to sign a promissory note or negotiable
19 instrument in an amount exceeding the appropriate fee plus legal interest or
20 evidencing a legal interest in excess of twelve percent per annum.

21 * * *

22 F. In addition to the penalties provided for in R.S. 23:108, any person found
23 by the director to have violated the provisions of Paragraph (C)(3) of this Section
24 shall personally be liable for a fine of not less than five hundred dollars or more than
25 fifteen hundred dollars per violation.

26 * * *

27 §113. Violations of provisions; penalty

28 A person who acts as an employment service without a license as provided
29 in this Part shall be ~~guilty of a misdemeanor~~ punishable by a fine of not less than

- 1 fifty nor more than ~~five hundred~~ one thousand dollars per violation, by imprisonment
- 2 for not more than six months, or both.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Morris

HB No. 1199

Abstract: Provides for changes in regulation of employment services.

Present law provides that when a written complaint against an employment service licensee is filed alleging violations of present law, the allegation may be served on the licensee by personal delivery or by registered mail. Present law also provides that any act or omission in violation of present law shall carry a fine not to exceed five hundred dollars, suspension of the license for a period of not more than one year, or revocation of license.

Proposed law changes present law by providing that violations by licensee may result in a fine not to exceed five hundred dollars per violation.

Present law provides that if the assistant secretary determines that an applicant is entitled to a refund pursuant to present law, the assistant secretary is authorized to issue an order to the employment service requiring the refund to be made.

Proposed law provides should an applicant be entitled to a refund the director shall issue an order to the employment service requiring a refund be made.

Proposed law provides that any applicant injured by an employment service, his agents or employees while acting within the scope of his employment by reason of misstatement, misrepresentation, fraud or deceit or other unlawful act shall have the right to seek recovery of amounts paid by the applicant to the employment service plus damages not to exceed 25% of the fee paid. Further provides for other relief including attorney fees.

Present law provides that employment services shall not engage in certain prohibited conduct.

Proposed law adds to present law by providing that an employment service may not charge an applicant a fee when employment is procured with a governmental employer.

Present law provides that in addition other penalties in present law, any person found to have violated provisions with regard to the division or sharing fees received from any applicant or employer with any applicant, any employer or other person in any way connected with the employer's business shall be liable for a fine of not less than \$500 or more than \$1500.

Proposed law changes present law by providing for a fine for each violation.

Present law provides that a person acting as an employment service without a license shall be guilty of a misdemeanor punishable by a fine of not less than \$50 nor more than \$500, by imprisonment for not more than six months, or both.

Proposed law changes present law by providing that the an unlicensed person shall be punished with a fine of not more than \$1000 per violation.

(Amends R.S. 23:108(B)(1) and (C), 111(C)(10) and (11), and (F), and 113; Adds R.S. 23:108(F) and 111(C)(12))